IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 1080 of 2001

For Approval and Signature:

HONOURABLE MR.JUSTICE D.H.WAGHELA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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DEPUTY ENGINEER GUJARAT ELECTRICITY BOARD - Petitioner(s)
Versus
HARESH D KALAIYA - Respondent(s)

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Appearance :
MR SP HASURKAR for Petitioner(s) : 1,
MR HR PRAJAPATI for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE D.H.WAGHELA

Date : 10/04/2007

ORAL JUDGMENT

1. Invoking Articles 226 and 227 of the Constitution, the petitioner has called into question the award and order dated 15.4.2000 of Labour Court,

Junagadh in Reference (LCJ) No. 1002 of 1990 whereby the respondent was ordered to be reinstated with 35% backwages from 17.8.1987. The impugned award is based on the assumption that the respondent workman had completed continuous service of at least 240 days in the period of 12 months preceding date of termination of his service and that the termination was in violation of the provisions of section 25-F of the Industrial Disputes Act, 1947.

2. It was seen from the discussion of the evidence in the impugned order that, even according to the deposition of the workman himself, he was intermittently employed by specific orders from 15.2.1983 for two months, again from 9.5.1983 for two months and lastly from 20.2.1984 to 24.5.1984. Therefore, admittedly, the respondent could not have completed actual service of 240 days in the period of 12 months preceding the date of termination of his service. Therefore, there was no question of violation of the provisions of section 25-F and the impugned award is perverse and illegal in that regard.

3. Therefore, the petition is allowed, the impugned award and order dated 15.4.2000 in Reference (LCJ) No. 1002 of 1990 of Labour Court, Junagadh, is quashed. Rule is made absolute accordingly with no order as to costs.

sd/-
[D. H. Waghela, J.]

msp